

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 12924, of Bender Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow a roof structure to have walls of unequal height and for a variance from the height limitations for roof structures (Paragraph 5201.24), and for a special exception under Paragraph 5303.11 to waive the rear yard requirements, all to allow construction of an office-retail building in the C-4 District at the premises 1120 "G" Street, N. W., (Square 320, Lots 15 and 806).

HEARING DATE: May 23, 1979

DECISION DATE: July 11, 1979

FINDINGS OF FACT:

1. The subject property is located on the southeast corner of the intersection of 12th and "G" Streets, N. W. and is known as 1120 "G" Street, N. W. It is in a C-4 District.

2. The subject site is rectangular in shape and contains 12,875 square feet of land area. The site is developed with the Neisner Variety store which is now vacant. The applicant proposes to demolish the improvements.

3. To the north of the subject property is "G" Street followed by a Metro rail entrance, Medco Discount Store and Dart Drug in the C-4 District. To the east, adjacent to the site there is the McLachlen National Bank building in the C-4 District. To the south, abutting the site is the four story Lerner's Shop clothing store and a wig shop in the C-4 District. To the west, across 12th Street there is a four story retail/office building with Hank's Florist shop on the first floor.

4. The applicant proposes to construct a new ten story office and retail building on the subject site. The building will include four levels of underground parking for approximately 120 cars.

5. The Zoning Regulations permit a penthouse height of 18.5 feet. The applicant's original plans evidence the main penthouse to be 18.5 feet and the elevator penthouse to be twenty-four feet. The applicant seeks a special exception to allow a roof structure to have walls of unequal height and a

variance of 5.5 feet from the height limitation for roof structures.

6. The applicant proposes to provide no rear yard. The applicant seeks a special exception to waive the rear yard requirements.

7. The applicant testified that, following talks with the Westinghouse and Otis elevator manufacturers, the height of the proposed elevator roof structure has been reduced to twenty-two feet, a level where the elevator equipment operates with a minimum of clearance. The reduced height requires a variance of 3.5 feet.

8. The applicant testified that the plans do not show the penthouse brick walls extending above the elevator equipment structure because proportionally the building would appear top heavy. The elevator structure consists of two per cent of the total roof area and is set back on the roof.

9. The proposed roof structure will be of brick construction with a warm gray white color to compliment the color of the adjacent McLachlen office building. There will be vent louvers in the facade of the roof structure of varying dimensions.

10. The proposed office/retail building will be two stories shorter than the adjacent McLachlen National Bank office building to the east.

11. Paragraph 5303.11 of the Zoning Regulations provides that the BZA may waive the rear yard requirements pertaining to the C-4 District, provided specific standards intended to protect the light, air and privacy of adjacent properties and off-street service functions, including parking and loading areas and access points, are met.

12. The proposed office building's south elevation on which side a rear yard would normally be located is adjacent to the four story Lerner's Department Store. The Lerner's store does not have any windows on its north wall, and thus does not rely on light and air from that direction. There is no alley separation between the two buildings.

13. The proposed building plans include below ground parking for approximately 120 cars. The entrance and exit for this garage is on "G" Street. There is a truck loading and receiving bay on the first floor on 12th Street.

14. The Zoning Commission in it's Order No. 139, dated December 2, 1976, among other items, amended the text of the

Zoning Regulations to read "that roof structures shall not exceed 18.5 feet in height above the roof upon which they are located, and that enclosing walls shall be of equal height." The Board finds that since the enactment of the 18.5 foot limitation, many high-rise buildings have been constructed where the height of the roof structure does not require a variance. The Board finds no condition of this property which would form the basis for a variance or which would preclude the construction of a roof structure in compliance with the Regulations.

15. The Office of Planning and Development by report dated June 4, 1979 recommended that the application be granted on the grounds that the Office does not believe that the requested relief would cause substantial detriment to the public good or impair substantially the purpose and intent of the Zoning Regulations and Map. The OPD was of the opinion that the 5.5 feet deviation from the height requirements in this case will not adversely impact the surrounding skyline. The relatively small elevator structure sits back from the roof edge and is constructed of the same material as the main facade of the building. The OPD was also of the opinion that the exclusion of the rear yard will not block the light and air circulation of adjacent properties. The OPD reported that in its opinion, due to the mechanical requirements of the elevators, a practical difficulty would beset the applicant if the proposed required machine room needed to operate the elevator on the roof were not permitted. As to the variance of the rear yard requirements the Board concurs. As to the height limitations of roof structures and to allow walls of unequal height the Board disagrees for reasons already stated and listed below.

16. Advisory Neighborhood Commission 2C made no written recommendation to the application.

17. There was no opposition to the application.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking a special exception and a variance as to the roof structures and a special exception to waive the rear yard requirements.

As to the roof structures, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty upon the owner arising out of the property. The Board concludes that the applicant has demonstrated no practical difficulty associated with the property, which is rectangular, ordinary and easily developable. Any

practical difficulty which might exist results from the design of the building and the type of elevator service proposed. The Board notes that since the adoption of Order No. 139, many high-rise office buildings have been constructed having roof structures which complied with the height, setback, and enclosure requirements. The Board concludes that no evidence has been presented in this case to suggest that the building could not be designed so as to be in compliance. The Board concludes that the granting of the relief for the roof structures would be contrary to the intent, purpose and integrity of the Zoning Regulations.

As to the waiver of the rear yard requirements the Board concludes that the applicant has substantially complied with the requirements of Paragraph 5303.11 of the Zoning Regulations and that this special exception can be granted as in harmony with the general intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the variance from the height of roof structures and the special exception to allow walls of unequal height is DENIED and the special exception to waive the rear yard requirements is GRANTED.

VOTE: As to the roof structures 3-0 (John G. Parsons, Chloethiel Woodard Smith and Leonard L. McCants to deny, William F. McIntosh not voting, not having heard the case).

VOTE: As to the waiver of the rear yard requirements 3-0 (John G. Parsons, Chloethiel Woodard Smith and Leonard L. McCants to grant, William F. McIntosh not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 6 SEP 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.